

OFFICIAL COPY

Fresno, California July 27, 2004

The City Council met in regular session at the hour of 8:33 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Mike Dages	Councilmember
	Jerry Duncan	Councilmember
	Henry Perea	Acting Council President
	Cynthia Sterling	Councilmember
	Brad Castillo	Council President

Dan Hobbs, City Manager
Jon Ruiz, Assistant City Manager
Hilda Cantu Montoy, City Attorney
Becky Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

Reverend Jonah Yang, Sierra Vista United Methodist Church, gave the invocation, and President Castillo led The Pledge of Allegiance.

COUNCIL MEMBER REPORTS AND COMMENTS:

REQUEST FOR (1) STAFF TO SCHEDULE ON THE AUGUST 17TH AGENDA AT A TIME CERTAIN A RESOLUTION SUPPORTING THE ENHANCEMENT OF THE SOCIAL SECURITY ACT OF 2003, (2) A STATUS REPORT ON THE APPRENTICESHIP PROGRAM, AND (3) A STATUS REPORT ON THE CHANGE TO REQUIRE APPOINTEES TO THE ROOSEVELT IMPLEMENTATION COMMITTEE TO LIVE IN THE CITY OF FRESNO - COUNCILMEMBER DAGES

Requests made.

REQUEST FOR QUARTERLY UPDATES/PROGRESS REPORTS ON THE HOUSING AND ECONOMIC DEVELOPMENT'S AGGRESSIVE GOAL TO LOCATE 25 FORTUNE 1000 COMPANIES IN FRESNO AND THE \$238K IDENTIFIED FOR THAT ACTIVITY - COUNCILMEMBER DUNCAN

Request made with City Manager Hobbs responding.

REQUEST FOR QUARTERLY REPORTS ON THE CITY'S AND AGENCY'S 5-YEAR PLAN TO ATTAIN 60% BUILD-OUT OF THE ROEDING INDUSTRIAL BUSINESS PARK - PRESIDENT CASTILLO

Request made.

COMMENDATION TO ASSISTANT CITY MANAGER SOUZA, TRANSPORTATION MANAGER RUDD, FOREST DEAN, AGENCY DIRECTOR FITZPATRICK AND EMPLOYEES MANUEL HERNANDEZ AND SEAN (LAST NAME UNKNOWN) FOR THEIR PARTICIPATION AND EFFORTS IN THE ANNUAL BASEBALL GAME WITH SENIORS AT QUIGLEY PARK - COUNCILMEMBER BOYAJIAN

Commendation made.

APPROVE AGENDA:

(5:00 P.M. #2) DIRECT STAFF TO (1) PREPARE NECESSARY DOCUMENTS TO DE-FUND THE NEWLY ESTABLISHED EDUCATION RELATED CDBG PROGRAMS IN THE PARKS, RECREATION & COMMUNITY SERVICES (PR&CS) FY 2005 BUDGET, THE INCREASED FUNDING FOR THE EDUCATION PROGRAMS IN THE PR&CS FY 2005 BUDGET ABOVE THE FY 2004 AMOUNT, AND THE FY 2005 CDBG FUNDS ALLOCATED TO RESETTLEMENT SERVICES, TOTALING APPROXIMATELY \$1,107,400, AND (2) PREPARE THE NECESSARY DOCUMENTS TO FUND THE FRESNO UNIFIED SCHOOL DISTRICT (FUSD) ELEMENTARY SCHOOL MUSIC PROGRAM - PRESIDENT CASTILLO

On motion of Councilmember Duncan, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled 5:00 p.m. #2 item tabled to January 11, 2005, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Duncan
Noes	:	Perea, Sterling, Castillo
Absent	:	None

President Castillo stated by this action it was evident he did not violate the Brown Act by trying to get his colleagues to support this issue and added he would have to explain this action to the children when they show up at 5:00 p.m.

(1-N) RESOLUTION - 3RD AMENDMENT TO AAR 2004-209 APPROPRIATING \$465,000 FOR UGM REIMBURSEMENTS TO CENTEX HOMES FOR WATER SYSTEM IMPROVEMENTS CONSTRUCTED WITHIN WATER SUPPLY SERVICE AREA 501-S

Removed from the agenda at the direction of staff.

(4:00 P.M.) CONTINUED HEARING ON THE PLANNING COMMISSION'S DECISION REGARDING CONDITIONAL USE PERMIT (CUP) APPLICATION NO. C-02-226 AND ENVIRONMENTAL FINDINGS FILED BY WILKINS ENTERPRISES FOR PROPERTY LOCATED IN COUNCIL DISTRICT 2 **(CONTINUE TO AUGUST 17, 2004, AT 4:30 P.M.)**

Continued as noted.

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, the **AGENDA** hereby approved, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling
Noes	:	Castillo
Absent	:	None

ADOPT CONSENT CALENDAR:

Brief discussion ensued on the ability of Councilmembers to make brief comments or commend/thank staff on certain items without pulling the items from the consent calendar whereupon it was determined any item that Councilmembers wanted to speak to must be removed from the consent calendar for discussion at time specified. Items 1-B, 1-E, 1-F, 1-R and 1-U were pulled for discussion/comments.

(1-A) (REMOVED FROM THE AGENDA)

(1-C) RESOLUTION NO. 2004-245 - APPROVING THE REALLOCATION OF \$30,000 FOR THE POLICE DEPARTMENT'S CALIFORNIA SEAT BELT COMPLIANCE CAMPAIGN (CSBCC) CONTINGENCY TO CONTINUE TO CONDUCT SEAT BELT ENFORCEMENT OPERATIONS FUNDED BY THE OFFICE OF TRAFFIC SAFETY

(1-D) RESOLUTION NO. 2004-246 - 5TH AMENDMENT TO THE AAR 2004-209 APPROPRIATING \$788,900 FOR CONTINUANCE OF THE U.S. DEPARTMENT OF JUSTICE OFFICE OF COMMUNITY ORIENTED POLICING SERVICES (COPS) FOR THE COPS TECHNOLOGY INITIATIVE COMPUTER UPGRADE AND SPECIFIC PROJECT GRANTS

(1-G) RESOLUTION NO. 2004-247 - RELATING TO THE COMPUTATION OF TIME FOR FILING DOCUMENTS WITH THE CITY

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(1-H) AUTHORIZE SUBMISSION OF AN APPLICATION TO PACIFIC GAS AND ELECTRIC (PG&E) COMPANY FOR THE 2004 ECONOMIC DEVELOPMENT GRANTS PROGRAM

(1-I) RESOLUTION NO. 2004-248 - INTENT TO ANNEX FINAL TRACT NO. 5137 TO COMMUNITY FACILITIES DISTRICT (CFD) NO. 2, ANNEXATION 73 AND AUTHORIZE THE LEVY OF SPECIAL TAXES, AND SETTING THE PUBLIC HEARING FOR AUGUST 31, 2004

(1-J) APPROVE REQUEST FROM LEWIS C. NELSON CO., INC. TO SUBSTITUTE O'NEAL MASONRY PARTNERS WITH BEST MASONRY, INC., FOR THE CONCRETE MASONRY UNIT PORTION OF THE FIRE STATION NO. 15 AND 17 PROJECTS

(1-K) APPROVE REQUEST FROM LEWIS C. NELSON CO., INC., TO SUBSTITUTE AMERICAN SHEET METAL AIR CONDITIONING AND HEATING WITH AMERICAN, INC., FOR THE HVAC PORTION OF THE FIRE STATION NO. 15 AND 17 PROJECTS

(1-L) RESOLUTION NO. 2004-249 - RESCINDING RESOLUTION NO. 95-72 AND AUTHORIZING APPROPRIATION OF ASSESSMENT DISTRICT NO. 133 SURPLUS FUNDS FOR MAINTENANCE OF TRAFFIC SIGNAL FACILITIES ORIGINALLY CONSTRUCTED BY THE DISTRICT

1. RESOLUTION NO. 2004-250 - 2ND AMENDMENT TO THE AAR 2004-209 APPROPRIATING \$45,000 FOR ASSESSMENT DISTRICT NO. 133 FOR MAINTENANCE OF DISTRICT IMPROVEMENTS

(1-M) RESOLUTION NO. 2004-251 - INTENT TO ANNEX FINAL TRACT NO. 5233 TO COMMUNITY FACILITIES DISTRICT (CFD) NO. 2, ANNEXATION NO. 74 AND AUTHORIZE THE LEVY OF SPECIAL TAXES, AND SETTING THE PUBLIC HEARING FOR AUGUST 31, 2004

(1-O) APPROVE THE PURCHASE OF A 57 SQUARE FOOT PUBLIC UTILITY EASEMENT BY THE CITY FROM DOUBLE PROPERTIES, LLC, FOR THE EXPANSION OF SEWER LIFT STATION NO. 6, FOR THE AGREED UPON PRICE OF \$900; AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO EXECUTE ALL APPROPRIATE DOCUMENTS TO COMPLETE THE TRANSACTION

(1-P) APPROVE THE PURCHASE OF A 7.3 ACRE PARCEL OF LAND FROM CAPISTRANO FRESNO PARTNERS II, OR THEIR SUCCESSORS IN INTEREST, DEPICTED AS OUTLOT A OF TRACT 5134, FOR THE PRICE OF \$545,000, AND AUTHORIZE THE INTERIM PUBLIC WORKS DIRECTOR TO SIGN THE PURCHASE AND SALE AGREEMENT AND ACCEPT THE GRANT DEED, SUBJECT TO PRIOR REVIEW AND APPROVAL OF THE CITY ATTORNEY'S OFFICE

(1-Q) APPROVE APPLICATION FOR AND ACCEPTANCE OF A GRANT AWARD FOR \$148,000 FROM THE STATE OFFICE OF EMERGENCY SERVICES (OES) THROUGH THE COUNTY OF FRESNO, AND AUTHORIZE THE FIRE CHIEF TO COMPLETE ALL REQUIRED DOCUMENTS

1. RESOLUTION NO. 2004-252 - 4TH AMENDMENT TO THE AAR 2004-209 APPROPRIATING \$148,000 FROM THE HOMELAND SECURITY GRANT TO THE FIRE DEPARTMENT TO PURCHASE AIR PURIFYING RESPIRATORS AND PROVIDE HAZARDOUS MATERIALS AND TECHNICAL RESCUE TRAINING

(1-S) RESOLUTION NO. 2004-253 - APPROVING THE FINAL MAP OF TRACT NO. 5096 AND ACCEPTING DEDICATED PUBLIC USES THEREIN, NORTHEAST CORNER OF E. HAMILTON AND S. FOWLER AVENUES IN COUNCIL DISTRICT 6

1. AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE THE SUBDIVISION AGREEMENT AND THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR LANDSCAPE MAINTENANCE
2. AUTHORIZE THE PUBLIC UTILITIES DIRECTOR TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT PROVIDING SPECIAL SOLID WASTE DISPOSAL SERVICES
3. AUTHORIZE THE PLANNING AND DEVELOPMENT DIRECTOR TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT DEFERRING CERTAIN SEWER CONNECTION CHARGES, WATER CONNECTION CHARGES, URBAN GROWTH MANAGEMENT FEES AND DEVELOPMENT FEES TO THE TIME OF ISSUANCE OF CERTIFICATE OF OCCUPANCY AND CREATION OF LIEN, AND THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR PLANTING AND MAINTAINING FRONT YARD TREES

(1-T) APPROVE AMENDMENT NO. 1 TO THE HOME INVESTMENT PARTNERSHIPS (HOME) COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO) PRE-DEVELOPMENT AGREEMENT BETWEEN THE CITY AND THE CENTRAL COMMUNITY DEVELOPMENT CENTER TO CHANGE THE PROJECT'S PROPOSED LOCATION

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(1-V) ADOPT THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND THE CITY OF FRESNO MANAGEMENT EMPLOYEES ASSOCIATION (CFMEA), UNIT 14, COVERING THE PERIOD JULY 1, 2004, THROUGH JUNE 30, 2006

1. RESOLUTION NO. 2004-254 - 3RD AMENDMENT TO SALARY RES. 2004-213 AMENDING EXHIBIT 2, SECTION 2.3 - MANAGEMENT CONFIDENTIAL CLASSES (CFMEA)

(1-W) AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE AN AGREEMENT WITH THE COUNTY OF FRESNO FOR REPAVING STREETS BY THE CITY WITHIN THE CITY AND COUNTY JURISDICTION (DEL MAR, ASHLAN AND CEDAR AVENUES)

(1-X) BILL NO. B-67 - ORDINANCE NO. 2004-73 - ADDING SECTION 4-105 TO THE FRESNO MUNICIPAL CODE RELATING TO RECEIPT AND RECORDING OF PERSONAL PROPERTY

On motion of Councilmember Dages, seconded by Acting President Perea, duly carried, **RESOLVED**, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : None
 Absent : None

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(4-A) RESOLUTION NO. 2004-255 - IN SUPPORT OF MEASURE "Z" - SAVE OUR ZOO - MAYOR AUTRY AND COUNCILMEMBERS DUNCAN AND STERLING

Councilmember Duncan advised this resolution was being circulated throughout all the elected bodies within Fresno county and spoke briefly to the measure, stated he hoped the public would ignore the misinformation "being thrown out there" by a former city councilman whom he stated does not know what he is talking about, and made a motion to adopt the resolution. Councilmember Sterling seconded the motion and expressed her support, spoke to the community coming together to save a piece of history and to the importance of approving this measure in November, and advised her office could be contacted for information and phone contact numbers and encouraged support. Upon the request of Councilmember Calhoun, City Attorney Montoy explained what elected officials can and cannot do relative to ballot measures. Councilmember Calhoun encouraged Council to be careful and not provide any grist for the very few people who may wish to turn this fine issue against Council due to Council being too enthusiastic. President Castillo also expressed his enthusiastic support.

Barbara Hunt, 2475 S. Walnut, spoke in support.

On motion of Councilmember Duncan, seconded by Councilmember Sterling, duly carried, **RESOLVED**, the above entitled Resolution No. 2004-255 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : None
 Absent : None

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(2-A) RESOLUTION - ESTABLISHING THE CENTRAL AREA CITIZEN ADVISORY COMMITTEE

Planning & Development Director Yovino reviewed the issue as contained in the staff report as submitted and advised staff supported the formation of the committee for the reasons outlined in the resolution.

Barbara Hunt, 2475 S. Walnut, spoke to the issue, boundaries, and the number of committees already in District 3.

Councilmember Calhoun stated he appreciated the issue coming to Council so fast after hanging out there for so long but advised the Chamber and the Fresno Business Council did not know this matter was coming forth and they wanted to address it, and requested the matter be postponed so Council and the community could review the issue further and added because downtown was an area of interest to everyone he felt it was incumbent upon Council to not move too fast and to give the issue two weeks for further research, press coverage,

and an informative debate.

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Councilmember Sterling spoke in opposition to establishing the committee stating nothing was broken and nothing needed to be fixed, there had been no problems in downtown development that required the creation of another committee, the creation of this committee was not a recommendation of the 3RC Committee in their Destination Downtown Report, reports on downtown from numerous downtown entities already existed, establishing the committee would create another layer of bureaucracy that could hinder downtown development, and advised there were already approximately 15 committees and subcommittees that covered the downtown and central areas. Councilmember Duncan concurred and stated although he originally supported the issue as he felt a committee might have been beneficial a couple of years ago he could see no benefit for it at this time and added this issue should be driven by the district representative.

A motion of Councilmember Calhoun, seconded by President Castillo, to table the matter two weeks failed, by the following vote:

Ayes :	Calhoun, Perea, Castillo
Noes :	Boyajian, Dages, Duncan, Sterling
Absent :	None

A motion and second was made to deny the resolution and lengthy discussion ensued. Councilmember Calhoun stated by denying this resolution Council was denying the public the opportunity to consider and speak to the issue, stated all the other committees served a different function and different areas, stressed the Redevelopment Agency was driving downtown and he was very concerned, emphasized downtown did not belong to just one council member and stated what Council does or does not do would have an impact on downtown, and stated by denying the resolution Council was deciding to be out of the loop and stated he would bring the business community here to have their say. Councilmember Sterling disagreed and reiterated there were too many committees already and stated this was not the right approach. Councilmember Dages refuted the comment that the public was unaware this issue was coming forth, and stated this issue was made public and it was being heard now and this was democracy in action. Councilmember Boyajian spoke in support of the Redevelopment Agency and to all they have done for downtown citing the over \$1 billion of investment, and stated 13 committees were enough, downtown was going in the right direction, and Council did not need another committee to tell them what to do **(2 - 0)**. Mr. Yovino responded to questions of Acting President Perea relative to how many of the 13 committees dealt with downtown and which committee would deal with the Broadway Row project. Acting President Perea stated he would have liked to see this committee established as there were a lot of young people living downtown now who want to become a part of the process and have a say in how downtown is developed, and added Council was missing an opportunity for fresh new voices, new blood, and a different way of thinking. President Castillo concurred downtown did belong to the entire Council, stated it was unfortunate staff was asked to do all this work on the issue and it was now going to be put away without further review, and suggested the downtown triangle be pulled out of District 3 so that it would truly belong to the entire Council and questioned how that could be done, with City Attorney Montoy stating it would require a Charter amendment as the Charter called for seven council districts. President Castillo stated that might be something to consider/look at in the future.

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the above Resolution hereby denied, by the following vote:

Ayes :	Boyajian, Dages, Duncan, Sterling
Noes :	Calhoun, Perea, Castillo
Absent :	None

CLOSED SESSION:

(3-A) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAME: CITY OF FRESNO V. MANUEL CHAVOYA

(3-B) JOINT SESSION WITH THE REDEVELOPMENT AGENCY - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAME: REDEVELOPMENT AGENCY V. ROBERT EDWARDS, COURT CASE NO. 03CECG00433

The City Council met in regular and joint closed session in Room 2125 at the hour of 9:30 a.m. to consider the above issues and reconvened in regular open session at 10:18 a.m.

(9:40 A.M.) PUBLIC COMMENT PERIOD

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(A) SCHEDULED PUBLIC COMMENT - APPEARANCE BY JEFF JONES TO DISCUSS A BETTER TAXING SOLUTION

Not present when called.

(B) UNSCHEDULED COMMUNICATION - APPEARANCE BY BARBARA HUNT REGARDING PRIVATIZING CITY DEPARTMENTS

Appearance made. Acting President Perea briefly left the meeting at 10:21 a.m.

(9:45 A.M.) HEARING TO CONSIDER THE PROPOSED ANNUAL ASSESSMENTS FOR LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT NO. 1

1. RESOLUTION NO. 2004-256 - CONFIRMING THE DIAGRAM AND ASSESSMENT AND THE LEVY OF AN ANNUAL ASSESSMENT FOR 2004-2005

President Castillo announced the time had arrived to consider the issue and opened the hearing. Interim Public Works Director Kirn gave an overview of the issue as contained in the staff report as submitted and recommended approval.

Barbara Hunt, 2475 S. Walnut, spoke in support.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution No. 2004-256 hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Duncan, Sterling, Castillo
Noes	:	None
Absent	:	Perea

(10:00 A.M.) HEARING TO CONSIDER THE VACATION OF A PORTION OF N. VAN NESS AVENUE BETWEEN W. HERNDON AND W. BEECHWOOD AVENUES - R.I. 1035-D

1. RESOLUTION NO. 2004-257 - ORDERING THE VACATION OF THE ABOVE

Acting President Perea returned to the meeting at 10:24 a.m. President Castillo announced the time had arrived to consider the issue and opened the hearing. President Castillo briefly left the meeting at 10:24 a.m.

Interim Public Works Director Kirn gave an overview of the issue as contained in the staff report as submitted and recommended approval.

Barbara Hunt, 2475 S. Walnut, spoke in opposition and to how much the city of Fresno does for developers.

Upon call, no one else wished to be heard and Acting President Perea closed the hearing.

On motion of Councilmember Dages, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled Resolution No. 2004-257 hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Duncan, Sterling, Perea
Noes	:	None

Absent : Castillo

President Castillo returned to the meeting at 10:26 a.m.

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(10:05 A.M.) CONSIDER COUNCIL OVERRIDE OF LINE ITEM VETO REGARDING RESOLUTION NO. 2004-209 (ANNUAL APPROPRIATION RESOLUTION) AS REQUESTED BY MAYOR AUTRY ON JULY 2, 2004

1. RESOLUTION NO. 2004-209 - RESTORATION OF FUNDING IN THE AMOUNT OF \$1,525,000 OF HOME FUNDS FROM THE PROPOSED HOTEL FRESNO PROJECT

Councilmember Sterling stated the proposal was financially sound, spoke to serious problem of available senior housing and the need to address that problem, stated the project was also important for the community and would provide many benefits, stated the Mayor did not give the project a fair chance, and stated the Hotel Fresno was part of Fresno's history and if this project did not move forward it would be torn down, elaborating/explaining her comments throughout.

Manuel Bernal, National Farm Workers Service Center, explained specifics of the project's financing.

Barbara Hunt 2475 S. Walnut, spoke in support of the Mayor's veto.

A motion and second was made to override the veto and restore the funding.

Councilmember Duncan spoke in opposition to the motion and stated the Mayor's veto message was conciliatory and left the door open, stated this was not the right project for the Hotel Fresno and added he was not hearing it was going to be torn down, stated if the issue was senior housing the city could provide that at a fraction of the subject cost, and spoke to his concerns with the financing and stated his biggest concern was locking up HOME funds which could be used now for housing for a lot of people.

City Manager Hobbs stated the Mayor was very clear in his veto message and read excerpts from it relative to the Mayor's commitment to downtown revitalization and low-income housing and how he had not closed the door on the project as he felt the project had potential for both of those objectives, noted the Mayor stated if results of an independent analysis were positive and answered key questions satisfactorily he might direct the project come back to Council for consideration, and added if the project could not be shown to be successful long-term there was a risk the city might be asked down the road to step in and pick up the pieces and subsidize and that was not acceptable.

President Castillo stated he found it ironic and hypocritical that Council was willing a few months ago to give a developer almost \$15 million in taxpayer dollars to build a private golf course around a housing development on a promise yet here was a senior housing project and the city was saying it did not have the time to look at the financial analysis and make a decision, questioned where staff was on the independent analysis, with Mr. Hobbs responding, and relative to Council being critical of the financing pointed out the Service Center stood to lose money and credibility if the project were to fail and stated the seniors were the losers and that was unfortunate. Councilmember Boyajian disagreed and spoke to two senior projects currently in the works, stated he has not seen any investment by this developer and based on talks with the business community stated this project would not do much for them, and stated Councilmembers were not hypocrites, they wanted senior housing, and they were looking for a better project that would benefit downtown and further develop it.

A motion of Councilmember Sterling, seconded by Councilmember Calhoun, to override the Mayor's veto failed, due to the need for five affirmative votes, by the following vote:

Ayes : Calhoun, Perea, Sterling, Castillo
 Noes : Boyajian, Dages, Duncan
 Absent : None

(10:15 A.M.) CONTESTED CONSENT CALENDAR ITEMS:

(1-B) RESOLUTION NO. 2004-258 - AUTHORIZING ACCEPTANCE OF \$50,000 IN GRANT FUNDING FROM THE STATE OF CALIFORNIA DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL FOR THE POLICE DEPARTMENT'S 2004-2005 GRANT ASSISTANCE TO LOCAL LAW ENFORCEMENT AGENCIES PROJECT (EDUCATION AND ENFORCEMENT OF ALCOHOL

RELATED LAWS AND REGULATIONS)

Councilmember Calhoun stated this item in the past came with 100% funding and now \$40,000 was being requested, noted the program deals with preventive measures/activities and he did not feel those activities were life threatening or critical in terms of the police department's priorities, and stated the issue was if this function, which he acknowledged was an appropriate one, was one the police department should appropriately be involved in considering the real challenges facing the city. Lt. Montano explained specifics of the ABC operation,

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spoke to the importance of prevention and education and how it benefits the community, and spoke briefly to the State grant stating it was a bonus. Chief Dyer spoke to the consequences of not accepting the grant and further to the benefits of the operation, and responded to questions of Councilmember Duncan relative to whether the program would target tobacco also **(3 - 0)** and if less effort was being spent on alcohol-related activities. Councilmember Duncan stated selling alcohol to minors was a critical priority and whether or not a grant is received there was a need to enforce those breaking the law and make them responsible, and made a motion to approve staff's recommendation, which motion was seconded and later acted upon. Councilmember Calhoun clarified his concern was addiction to grants and living and dying by them.

Chief Dyer, City Attorney Montoy and Lt. Montano responded to questions and comments of President Castillo relative to the number of liquor licenses revoked as a result of this program, how effective CUPs were, if any businesses have been shut down due to violations, how the last \$180K grant from ABC was used, need for Council to be aware that any time they accept a grant they will be asked to continue to fund the position(s) and that was a decision Council needed to make as policy-makers, and the loss of COPS grants in the future and need for Council to make some tough decisions and ask for a tax to continue to fund positions.

On motion of Councilmember Duncan, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled Resolution No. 2004-258 hereby adopted, by the following vote:

Ayes :	Boyajian, Dages, Duncan, Perea, Sterling, Castillo
Noes :	Calhoun
Absent :	None

(1-E) RESOLUTION NO. 2004-259 - ADMINISTRATIVE AMENDMENT TRANSFERRING \$448,000 FOR A TACTICAL TRAINING UNIT AND TRANSFERRING \$500,000 TO AN OVERTIME TRAINING FUND FOR POLICE OFFICERS

1. RESOLUTION NO. 2004-260 - 3RD AMENDMENT TO PAR 2004-210 ADDING SIX POSITIONS TO THE POLICE DEPARTMENT

Councilmember Calhoun stated although he voted in support of the tow ordinance he did not know the tow fines would go towards hiring the additional police officers, stated he did not see any correlation, acknowledged the additional officers were needed and funding the positions was a policy issue but stated he had a real concern with the process and added this was unfair to the taxpayers, and requested the two issues/resolutions be bifurcated and voted on separately. Chief Dyer explained how the general fund (which receives all revenues generated to provide overall city services) would fund the positions. Councilmember Sterling stated she, too, was not aware the tow revenues would be used for the officers and she could not support that, and advised she has received numerous calls from constituents relative to the unfairness of the tow fees. Chief Dyer further clarified funding the positions was contingent on tow fees and that proposal was laid out in the budget.

Councilmember Duncan made a motion to approve staff's recommendation as is, thanked Chief Dyer on the training unit and clarified what the training would do, and emphasized this was about public and police officer safety and strongly encouraged a "yes" vote. City Manager Hobbs spoke to when the police chief approached him on the tactical training unit and laid out some options, one of which was the tow revenue, and clarified it was very clear in the budget that the training unit and funding the \$500,000 in overtime was contingent upon establishment of a franchise tow fee, reiterated the fees that are being paid in this tow issue are being paid by people who have broken the law, and stated the important question here was should the people who break the law pay for that service or should taxpayers underwrite the cost of that activity?

Councilmember Calhoun noted he voted against the six positions because he did not see the revenue stream for them and does not remember them being tied to the tow funds, stated he also does not recall any discussion during the tow issue that those monies would go to the six additional positions or he would have voted in opposition, and reiterated his concern with raising fines to pay for the police department and explained. President Castillo stated he had his staff listen to the tape on the tow issue and confirmed the six positions were

not mentioned in the discussions. City Attorney Montoy stated this proposal was legal because tow fees were being used for the tow fee program and clarified not as much general fund money would be used now due to the new tow fee.

Councilmember Boyajian expressed his support for the issue and spoke to Chief Dyer's business experience and how he makes every effort to minimize impacts/make his own way/do very innovative things and encouraged more of that. President Castillo stated he still had a difficult time understanding recapturing loss of revenue and stated it was his understanding the reason for the tow increase was to basically break even and it did not make sense how you could break even and yet hire more officers.

On motion of Councilmember Duncan, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled Resolution Nos. 2004-259 and 2004-260 hereby adopted, by the following vote:

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Ayes : Boyajian, Dages, Duncan, Perea
Noes : Calhoun, Sterling, Castillo
Absent : None

(1-F) RESOLUTION NO. 2004-261 - 10TH AMENDMENT TO THE AAR 2004-209 APPROPRIATING \$3,269,000 TO FUND THE CONSTRUCTION OF NORTH AVENUE STREET IMPROVEMENTS, STATE ROUTE 41 TO STATE ROUTE 99 (FREEWAY 41 TO FREEWAY 99)

1. AWARD A CONTRACT TO HENDERSON CONSTRUCTION OF FRESNO IN THE AMOUNT OF \$2,761,383.37 FOR CONSTRUCTION OF NORTH AVENUE STREET IMPROVEMENTS

-and-

(1-R) RESOLUTION NO. 2004-262 - 2ND AMENDMENT TO THE PAR 2004-210 ADDING FIREFIGHTER POSITIONS TO THE FIRE DEPARTMENT BEGINNING SEPTEMBER 1, 2004, THROUGH DECEMBER 31, 2004 (2.33 FULL-TIME EQUIVALENTS)

Relative to Item 1-F Councilmember Sterling thanked the economic development and public works directors and their staff for the work they are doing on North Avenue stating the project was addressing industrial development in the area and was also meeting the criteria for the Regional Jobs Initiative; and on Item 1-R thanked Chief Bruegman and his staff for moving forward in the creation of additional firefighter jobs to keep the city safe.

On motion of Councilmember Sterling, seconded by Councilmember Duncan, duly carried, RESOLVED, relative to **Item 1-F** the above entitled Resolution No. 2004-261 hereby adopted, and a contract in the amount of \$2,761,383.37 awarded to Henderson Construction of Fresno for construction of North Avenue Street Improvements, State Route 41 to State Route 99, Base Bid plus Add Alternates 1 and 2; and relative to **Item 1-R** the above entitled Resolution No. 2004-262 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes : None
Absent : None

(1-U) ADOPT THE MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY AND THE FRESNO CITY EMPLOYEES ASSOCIATION (FCEA), UNIT 03, COVERING THE PERIOD JULY 1, 2003, THROUGH JUNE 30, 2005

Councilmember Calhoun commended both parties on the negotiations and stated this was a good contract with one small exception -- the Identification Technicians receiving an additional 1.33 holiday hours per month as currently provided to Emergency Service Dispatchers; acknowledged this was not a big financial issue but he felt it was going down a road that concerned him and that was singling out areas with "high stress" which would result in the different groups getting in line in the future for that benefit also as that was how negotiations worked; stated ID technicians may have high stress jobs but that was life and clarified he was not trying to criticize anyone; and stated he would reluctantly oppose the contract due to that one flaw and stated the message he hoped to send to all the fine FCEA employees was they all had stressful jobs and their work was appreciated but he could not support the contract because a handful of employees were being singled out that somehow "had more stressful jobs" and he did not buy that. Councilmember Duncan concurred with Councilmember Calhoun and stated he, too, was concerned with the direction it would take the city in the long run, and congratulated staff and the union on a good job.

(4 - 0) A motion and second was made to adopt the MOU.

Upon question of President Castillo, FCEA Business Manager Correa explained specifically what the individuals did that warranted the additional holiday time, and City Manager Hobbs commented on the contract and thanked the team that worked on it. President Castillo commended the city team on the contract negotiations stating this was probably the first time a contract was completed in such a timely manner, stated until you know what someone does in their job you can't understand it and cited police ride-alongs, and challenged his colleagues to go with the ID techs and see first hand what they do to get a full understanding of their job.

Barbara Hunt, 2475 S. Walnut, spoke in support of the motion.

On motion of Acting President Perea, seconded by Councilmember Sterling, duly carried, RESOLVED, the successor MOU between the City and FCEA Unit 03 hereby approved, by the following vote:

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Ayes : Boyajian, Dages, Perea, Sterling, Castillo
 Noes : Calhoun, Duncan
 Absent : None

(10:30 A.M.) HEARING ON PLAN AMENDMENT APPLICATION NO. A-04-04, REZONE APPLICATION NO. R-04-09, AND ENVIRONMENTAL FINDINGS, FILED BY CIAO PROPERTIES, WEST SIDE OF N. GRANTLAND AVENUE BETWEEN W. BARSTOW AND W. BULLARD IN COUNCIL DISTRICT 2

1. CONSIDER AND ADOPT A MITIGATED NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT NO. A-04-04/R-04-09

2. RESOLUTION - AMENDING THE 2025 FRESNO GENERAL PLAN AND THE WEST AREA COMMUNITY PLAN

3. BILL - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE PROPERTY FROM RR (RURAL RESIDENTIAL COUNTY) TO R-1/UGM (*CONSIDERED AGAIN LATER**)**

President Castillo announced the time had arrived to consider the issue and opened the hearing. Planner Chamberlain reviewed the issue as contained in the staff report as submitted and recommended approval.

Speaking to the issue were: Gary Giannetta, on behalf of the applicant, who spoke briefly to the background of the zoning and to the project and requested support; and Barbara Hunt, 2475 S. Walnut, who spoke to the need to protect agriculture land.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

Councilmember Boyajian spoke in opposition stating there was no growth plan for the area and there would be tremendous negative impacts and elaborated. Councilmember Calhoun made a motion to approve staff recommendation, which motion was seconded and later acted upon. Planning Manager Unruh and City Manager Hobbs responded to questions, comments and concerns of Councilmembers Dages and Boyajian relative to written information from Caltrans containing critical comments not being included in Council's packets, the city's on-going argument with Caltrans and if any progress was being made, concern with information flow, need for staff to submit all information so Council can make a better decision, and need to alleviate the problem with Caltrans and concern with staff not making an effort. Councilmember Calhoun clarified the West Area Committee served districts 1 and 2 and noted they approved the project along with the Planning Commission; stated if Councilmember Boyajian had concerns with the committee he needed to bring them forth and check on the committee; and stated the process was good and he supported it and staff and their efforts. President Castillo noted last week Council received the information on an item five minutes before it was to be considered which was not right and stated he should have abstained in that vote, advised he would abstain here due to the lack of information clarifying he would not feel proper voting against the project as it was a good one, and reminded Council they had the option to abstain in their vote.

A motion of Councilmember Calhoun, seconded by Councilmember Duncan, to approve staff's recommendation failed, due to the following vote:

Ayes : Calhoun, Duncan, Perea
 Noes : Boyajian

Absent : None
 Abstain : Dages, Sterling, Castillo

President Castillo stated the vote should send a strong message to staff that all information, regardless of whether it concurs with staff's recommendation or not, should be included in Council packets and stated it was incumbent on staff to let the developer know why this project was not approved. (**NOTE* - Action was taken after the following item to reconsider the issue after a clarification was made by the city attorney.)

(11:00 A.M. #2) PRESENTATION BY THE MAYOR'S OFFICE AND PG&E REGARDING "FRESNO ENERGY SAVINGS ALLIANCE"

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Mayor Chief of Staff White submitted brochures to Council and gave a brief overview of the issue, and Dennis Guido, Community Relations Manager for PG&E, reviewed the Fresno Energy Savings Alliance program that will be available to businesses and residences in the Enterprise Zone, all as outlined in the Mayor's memorandum to Council as submitted. Brief discussion ensued on the program and Council expressed their support. There was no further discussion.

(10:30 A.M.) HEARING ON PLAN AMENDMENT APPLICATION NO. A-04-04, REZONE APPLICATION NO. R-04-09, AND ENVIRONMENTAL FINDINGS, FILED BY CIAO PROPERTIES, WEST SIDE OF N. GRANTLAND AVENUE BETWEEN W. BARSTOW AND W. BULLARD IN COUNCIL DISTRICT 2

- 1. CONSIDER AND ADOPT A MITIGATED NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT NO. A-04-04/R-04-09**
- 2. RESOLUTION - AMENDING THE 2025 FRESNO GENERAL PLAN AND THE WEST AREA COMMUNITY PLAN**
- 3. BILL - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE PROPERTY FROM RR (RURAL RESIDENTIAL COUNTY) TO R-1/UGM (**CONTINUED FROM EARLIER*)**

City Attorney Montoy requested Council reconsider the matter as the project was not voted down on its merits and the applicant would not be able to proceed for one year. Upon the city attorney's request Councilmember Dages requested the matter be reconsidered stating it was not the developer's fault Council did not receive all appropriate information.

On motion of Councilmember Dages, seconded by Councilmember Calhoun, duly carried, RESOLVED, the 10:30 a.m. item hereby approved for reconsideration at 2:00 p.m., by the following vote:

Ayes : Calhoun, Dages, Duncan, Perea, Sterling
 Noes : Boyajian, Castillo
 Absent : None

LUNCH RECESS - 12:28 P.M. - 2:03 P.M.

(10:30 A.M.) HEARING ON PLAN AMENDMENT APPLICATION NO. A-04-04, REZONE APPLICATION NO. R-04-09, AND ENVIRONMENTAL FINDINGS, FILED BY CIAO PROPERTIES, WEST SIDE OF N. GRANTLAND AVENUE BETWEEN W. BARSTOW AND W. BULLARD IN COUNCIL DISTRICT 2

- 1. CONSIDER AND ADOPT A MITIGATED NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT NO. A-04-04/R-04-09**
- 2. RESOLUTION NO. 2004-263 - AMENDING THE 2025 FRESNO GENERAL PLAN AND THE WEST AREA COMMUNITY PLAN**
- 3. BILL NO. B-74 - ORDINANCE NO. 2004-74 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE PROPERTY FROM RR (RURAL RESIDENTIAL COUNTY) TO R-1/UGM**

(*CONTINUED FROM EARLIER)

President Castillo reopened the public hearing. Councilmember Dages stated he wanted the matter reconsidered as the city attorney clarified the developer would have to wait for one year to proceed and added to hold the developer hostage because staff did not submit all appropriate information was not fair, and stated Council sent their message to staff on the information and made a motion to approve staff's recommendation, which motion was seconded and later acted upon.

Moses Stites, Caltrans, 1352 W. Olive, responded at length to numerous questions and comments of Councilmember Boyajian relative to **(5 - 0)** how Caltrans is made aware of projects, what the on-going issues were between the city and Caltrans, legal/contract issues in dispute, if Caltrans' legal staff feels the city has not complied with CEQA, the jurisdictions Caltrans deals with, if Fresno was the only jurisdiction that does not work with Caltrans on fees, if Caltrans gets complete cooperation from the city with reports, what Caltrans' basic intent/purpose was, if Caltrans tries to plan for freeway systems/major streets with developers paying their share, the State's financial situation, and the west area lacking political clout due to the population, whereupon Councilmember Calhoun stated this discussion was inappropriate and questions needed to be focused on the rezoning issue, with President Castillo concurring. Mr. Stites responded to a few more questions relative to whether the State had any plans to improve major streets and increase on-ramps/off-ramps in the west area and if Caltrans has provided their information relative to design criteria and projects to the city.

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Assistant City Manager Ruiz stated there were basic fundamental legal differences on how to go about collecting fees, clarified it was staff's position that everyone should pay their fair share, and advised staff has regular on-going meetings with Caltrans every two weeks and would continue to work with them to resolve issues.

Upon call, no one else (that had not spoken earlier) wished to be heard and President Castillo closed the hearing.

On motion of Councilmember Dages, seconded by President Castillo, duly carried, RESOLVED, the finding of a Mitigated Negative Declaration for Environmental Assessment No. A-04-04/R-04-09 dated April 28, 2004, hereby approved; the above entitled Resolution No. 2004-263 hereby adopted; and the above entitled Bill No. B-74 rezoning the subject property adopted as Ordinance No. 2004-74, by the following vote:

Ayes :	Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	Boyajian
Absent :	None

(10:45 A.M.) HEARING ON TEXT AMENDMENT NO. TA-04-01 - AMENDING THE TEXT OF THE FRESNO MUNICIPAL CODE TO ADD "FURRIER" TO THE C-P ZONE DISTRICT SUBJECT TO A CONDITIONAL USE PERMIT (CUP)

1. BILL NO. B-68 - ORDINANCE NO. 2004-75 - AMENDING THE TEXT OF THE FRESNO MUNICIPAL CODE ADDING "FURRIER" TO THE C-P ZONE DISTRICT SUBJECT TO A CUP

President Castillo announced the time had arrived to consider the issue and opened the hearing. Supervising Planner Stiglich gave an overview the issue as contained in the staff report as submitted and recommended approval.

Speaking in support of the issue were: Lee Gage, representing the petitioner; and Barbara Hunt, 2475 S. Walnut.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, the environmental document prepared for this project, a Categorical Exemption, hereby adopted, and the above entitled Bill No. B-68 adopted as Ordinance No. 2004-75, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	None
Absent :	None

(10:50 A.M.) HEARING ON REZONE APPLICATION NO. R-03-65 AND ENVIRONMENTAL FINDING, FILED BY SELF-HELP ENTERPRISES, NORTHWEST CORNER OF S. WILLOW AND E. JENSEN AVENUES IN COUNCIL DISTRICT 5
1. CONSIDER AND ADOPT ENVIRONMENTAL ASSESSMENT NO. R-03-65/C-03-221/T-5210, FINDING OF CONFORMITY TO THE 2025 FRESNO GENERAL PLAN MASTER EIR NO. 10130
2. BILL NO. B-75 - ORDINANCE NO. 2004-76 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AE-20/UGM TO R-1/UGM (RELATED VESTING TENTATIVE TRACT MAP NO. 5210 PROPOSED TO SUBDIVIDE THE SUBJECT AREA INTO A 41-LOT, PLUS ONE REMAINDER, SINGLE FAMILY RESIDENTIAL PLANNED DEVELOPMENT)

President Castillo announced the time had arrived to consider the issue and opened the hearing. Planner Braun gave an overview of the issue as contained in the staff report as submitted and recommended approval. President Castillo briefly left the meeting at 2:26 p.m.

Liz (last name inaudible) from Self Help Enterprises, advised she and their engineer from Yamabe and Horn were present to answer any questions; and Barbara Hunt, 2475 S. Walnut, spoke in support.

Upon call, no one else wished to be heard and Acting President Perea closed the hearing.

Councilmember Dages stated he worked with Self-Help on another project (21 homes) in his district and they did an outstanding job and made a motion to approve staff's recommendation.

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On motion of Councilmember Dages, seconded by Councilmember Boyajian, duly carried, RESOLVED, the environmental finding of Environmental Assessment No. R-03-65/T-5210/C-03-221, dated April 28, 2004, that the project conforms to the provisions of the 2025 Fresno General Plan Master EIR No. 10130 hereby approved, and the above entitled Bill No. B-75 rezoning the project site adopted as Ordinance No. 2004-76, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Sterling, Perea
Noes : None
Absent : Castillo

(11:00 A.M. #1) HEARING TO CONSIDER PUBLIC USE AND NECESSITY FOR THE ACQUISITION OF A PERMANENT EASEMENT AND RIGHT-OF-WAY FOR PUBLIC STREET PURPOSES FROM THE FOLLOWING CONTIGUOUS PARCELS OF REAL PROPERTY LOCATED AT THE SOUTHEAST CORNER OF E. SHAW AND N. CEDAR AVENUES: APNs 430-080-50, 430-080-61 AND 430-080-62 (MOFFITT & ZANARDI, LLC)
1. RESOLUTION NO. 2004-264 - DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF THE SUBJECT PUBLIC STREET EASEMENT AND RIGHT OF WAY AND AUTHORIZING EMINENT DOMAIN PROCEEDINGS FOR PUBLIC USE AND PURPOSE

Acting President Perea announced the time had arrived to consider the issue and opened the hearing. Senior Real Estate Agent Hansen reviewed the issue as contained in the staff report as submitted, including the four findings to be made, and recommended approval.

Barbara Hunt, 2475 S. Walnut, spoke in opposition to eminent domain.

Upon call, no one else wished to be heard and Acting President Perea closed the hearing.

On motion of Councilmember Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution No. 2004-264 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Sterling, Perea
Noes : None
Absent : Castillo

(2:00 P.M.) CITY OF FRESNO RESPONSE TO THE DRAFT PROGRAMMED ENVIRONMENTAL IMPACT REPORT, "CALIFORNIA HIGH SPEED RAIL" PROJECT

President Castillo returned at 2:32 p.m. Transportation Manager Madewell, on behalf of numerous city departments/divisions, the Mayor's office and Councilmember Calhoun, Council's COG representative on high speed rail and rail issues, gave an overview of the issue and the six topics staff focused on with the EIR, all as contained in the staff report as submitted, and recommended the response be approved.

Speaking to related issues and/or to the response were: Barbara Hunt, 2475 S. Walnut; Gloria Torrez, Fresno; Larry Miller, 1584 E. Utah, Fresno County representative on the COG Rail Committee and the San Joaquin Valley Rail Committee; Tom Bailey, Fresno Area Residents for Rail Consolidation (FARRC), 1713 Tulare #140; Dennis Manning, FARRC; and Dave Wells, Fresno **(6 - 0)**.

Councilmember Calhoun thanked everyone involved in the issue, stated this response might not be 100% of what everyone wanted but it was close and there might be some slight tweaks, advised this would go through the County Board of Supervisors and he was anticipating unanimous support, spoke the politics of the issue and stated Fresno was in the drivers seat and explained, and made a motion to approve the response.

Mr. Madewell, a COG representative and Mr. Miller responded to questions and/or comments of Councilmembers Duncan, Perea, Dages, Boyajian and President Castillo relative to the express train bypassing Fresno, where the express trains would start and stop, why Fresno was excluded, why Fresno was not considered as a location for the maintenance facilities, commendation to staff for being aggressive and warriors to fight the battle for the city, need for elected officials and state government to step up to the plate if they are truly committed to the valley, the affected county cities and what issues they have raised, the express train and number of stops, number of mini express stops, concern

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with Fresno as the 6th largest city in the state being "blown off", why Mr. Miller feels the letter/response will not help, where the High Speed Rail Authority is headquartered, if the Authority has already made some decisions on the issue, the EIR process and comment period, process after comments are submitted, next step if the Authority does not adhere to Fresno's suggestions, if the bond will have to pass state-wide, chance for passage if the central valley is not on board, who Mr. Miller represents and who he is employed by, concern with Mr. Miller as the county's representative saying Fresno should settle for second best and concern with the Authority hearing "Fresno does not have its act together", the city of Fresno having the right to dream high speed rail will come to the city some day in whatever form, and if city staff was in communication with the Board of Supervisors and in concert with the county's position. Staff was commended on a job well done.

On motion of Councilmember Calhoun, seconded by Councilmember Sterling, duly carried, RESOLVED, the "Response to the Draft Programmed High Speed Rail Environmental Impact Report" from the City of Fresno hereby approved, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	None
Absent :	None

(2:45 P.M. #1) JOINT MEETING WITH THE REDEVELOPMENT AGENCY

The City Council recessed at 3:24 p.m. and convened in joint session with the Redevelopment Agency.

APPROVE AGENCY MINUTES OF JUNE 15 AND 29, 2004

On motion of Councilmember Sterling, seconded by Councilmember Dages, duly carried, RESOLVED, the Agency Minutes of June 15 and 29, 2004, approved as submitted.

(A) JOINT RESOLUTION NO. 2004-265/1651 - AUTHORIZING THE EXECUTIVE DIRECTOR OR REDEVELOPMENT ADMINISTRATOR TO EXECUTE THE DISPOSITION AND DEVELOPMENT AGREEMENT (DDA) BETWEEN THE REDEVELOPMENT AGENCY AND SPRADLING CONSTRUCTION, INC., TO SELL TWO RDA PROPERTIES FOR THE

DEVELOPMENT OF A 9-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION SUBJECT TO AFFORDABILITY RESTRICTIONS FOR THE PROVISION OF NINE LOW-INCOME FAMILY RESIDENCES

Redevelopment Administrator Murphey reviewed the issue as contained in the staff report as submitted and recommended approval. President Castillo briefly left the meeting at 3:28 p.m.

Barbara Hunt, 2475 S. Walnut, spoke to the issue.

Councilmember Dages spoke to a 9-home project constructed about 5 years ago stating it enhanced the area tremendously, encouraged support for this project stating the area was building itself up, and made a motion to approve staff's recommendation. Councilmember Calhoun questioned why Councilmember Dages was supportive of this project when he opposed another one in his district a few months back that was also going to have 5-6 bedrooms, with Councilmember Dages clarifying that project consisted of apartments and this one was for single-family homes among other reasons. Councilmember Sterling expressed her support, and City Attorney Montoy clarified this was a formal hearing even though the agenda did not state that and was legally noticed. President Castillo returned to the meeting at 3:35 p.m.

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Joint Resolution No. 2004-265/1651 hereby adopted, and the Executive Director or Redevelopment Administrator authorized to execute the agreement and related documents/instruments, by the following vote:

Ayes :	Calhoun, Dages, Duncan, Perea, Sterling, Boyajian
Noes :	None
Absent :	None
Abstain :	Castillo

(B) AWARD A CONTRACT TO M.J. MENEFEE CONSTRUCTION, INC., OF SELMA, CA, FOR THE VENTURA/KINGS CANYON BEAUTIFICATION PROJECT FROM FREEWAY 41 TO CHESTNUT AVENUE (AGENCY ACTION)

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Redevelopment Administrator Murphey reviewed the issue as contained in the staff report as submitted, recommended awarding the contract to Menefee even though their bid was 15% (\$111,000) above the Engineer's estimate and explained reasons therefor, and advised adequate funds were set aside for the project.

Barbara Hunt, 2475 S. Walnut, questioned why the RDA receives bids mostly from outside the Fresno area.

Councilmember Calhoun expressed concerns stating this was the second time a significant overage had occurred for a project on this street, this was a landscape project which was fine but he had a big problem with spending \$111,000 in taxpayer dollars that are to be appropriately spent to improve the area, to recommended approval because the funds were available was a weak excuse, someone got the message last time around that you could charge anything you want on Kings Canyon and stressed that was not the message the city needed to send, he did not feel public works staff would bring a project forth at 15% over the estimate, and stated there was no rush, staff should go back and rebid the project, the Palm trees did not have to go in this season and could wait till next year, and made a motion to deny/reject the bids. President Castillo seconded the motion and presented questions relative to specifics of the project, with **(7 - 0)** Ms. Murphey and Director Fitzpatrick responding.

Councilmember Dages stated he opposed the motion, spoke to the history of the project noting it went back years, and stated he felt the engineer under-estimated the project and there would not be any changes if staff were to rebid. Ms. Murphey responded to questions of Councilmember Sterling relative to the history of the project including the funding and funding source, if awarding this project would eliminate another project coming forth, and if these funds could be used in another district. Councilmember Duncan noted there seemed to be some strong concern relative to the engineer's estimate and upon his request Mr. Fitzpatrick and Ms. Murphey explained what the engineer's estimate was, meant and how it was used in this process. Councilmember Duncan stated there was no reason to deny this project, pointed out all engineer's estimates are wrong and 15% was an acceptable margin of error, stressed this project was important for Kings Canyon and southeast Fresno stating the area was coming back, and stated he hoped the motion-maker would withdraw his motion as it was a very harmful one. Councilmember Calhoun clarified his motion was only to reject the bids and President Castillo added denying/rejecting the bids was not denying the project and staff was being requested to rebid as there was always the chance a lower bid could come back.

A motion of Councilmember Calhoun, seconded by President Castillo, to reject the bids failed, by the following vote:

Ayes : Calhoun, Castillo, Perea
 Noes : Dages, Duncan, Sterling, Boyajian
 Absent : None

A motion and second was made to award the contract as recommended and discussion continued. Upon question of Councilmember Calhoun, Ms. Murphey stated the Phase I bid in 2002 was 27% above the engineer's estimate. Councilmember Calhoun stressed there was a trend and pattern here, disagreed with Councilmember Duncan that 15% was acceptable overage amount, stated he did not think Council ever voted on a public works project that was 15% over as public works would not bring them forth, acknowledged the good bid received on the Van Ness project but urged the Board to not compare apples to oranges and squander \$111,000, and stated he took engineer's estimates very seriously and questioned what message would be sent to professional engineers if their estimates are treated "willy-nilly".

Ms. Murphey, Mr. Fitzpatrick and City Attorney Montoy responded to questions of Councilmember Sterling and President Castillo relative to whether the funds were specifically designated for District 5, if there were any other projects on the books that might not be considered if this is approved, what will happen to the funds if this project is not approved, if any No Neighborhood Left Behind (NNLB) program infrastructure improvements would be eliminated by approving this project or if this would compliment the program, amount of NNLB funds District 5 would be receiving, total cost of the Phase I project, what the Phase I project entailed if there was any chance the company would replant the palm trees, if this project could be rebid with the understanding that it would occur next year, if it was true this project was not crucial/did not have to happen today/and palm trees were not crucial, and what type of lighting would be installed.

On motion of Councilmember Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, a contract hereby awarded to M.J. Menefee Construction of Selma CA, in the amount of \$811,400 for the Ventura/Kings Canyon Beautification Project between Freeway 41 and Chestnut Avenue, by the following vote:

Ayes : Dages, Duncan, Sterling, Boyajian
 Noes : Calhoun, Castillo, Perea
 Absent : None

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(C) HEARING ON DEVELOPMENT OF A NEIGHBORHOOD YOUTH CENTER AND RELATED FACILITIES ON PROPERTIES NEAR CALIFORNIA AND "C" STREETS IN THE SOUTHWEST FRESNO GNRA REDEVELOPMENT PROJECT AREA

1. **JOINT RESOLUTION NO. 2004-266/1652 - APPROVING A DISPOSITION AND DEVELOPMENT AGREEMENT (DDA) BETWEEN THE REDEVELOPMENT AGENCY AND THE FRESNO COUNTY ECONOMIC OPPORTUNITIES COMMISSION (EOC) FOR DEVELOPING THE YOUTH CENTER AND MAKING CERTAIN FINDINGS**
2. **APPROVE A LICENSE/PERMIT TO ENTER PROPERTY AGREEMENT**

Chair Boyajian announced the time had arrived to consider the issue and opened the hearing. Redevelopment Administrator Murphey reviewed the issue as contained in the staff report as submitted and recommended approval.

Barbara Hunt, 2475 S. Walnut, spoke to boundary issues; and Joseph Kitchen, 6 E. Lemon, spoke in support.

Upon call, no one else wished to be heard and Chair Boyajian closed the hearing.

Councilmember Calhoun briefly left the meeting at 4:17 p.m. Councilmember Sterling spoke in support of the project and to what it would do for her district, and made a motion to approve staff's recommendation.

On motion of Councilmember Sterling, seconded by President Castillo, duly carried, RESOLVED, the above entitled Joint Resolution No. 2004-266/1652 hereby adopted, a License/Permit to Enter Property Agreement between the Agency and EOC to permit EOC early entry to the property for purposes of site preparation only (no permanent improvements) hereby approved, and the Executive Director or Redevelopment Administrator authorized to convey the project site to the Fresno County Economic Opportunities Commission ("Developer"), subject to the purchase price and other terms contained in the DDA, and execute the documents necessary for conveyance

including, without limitation, escrow instructions and deed, by the following vote:

Ayes : Castillo, Dages, Duncan, Perea, Sterling, Boyajian
 Noes : None
 Absent : Calhoun

(D) CONSIDER MATTERS RELATING TO THE MID STATE BOWL PROPERTY CONSISTING OF FIVE PARCELS LOCATED AT THE SOUTHWEST CORNER OF CLINTON AND WEBER AVENUES WITHIN THE FREEWAY 99-GOLDEN STATE BOULEVARD CORRIDOR REDEVELOPMENT PROJECT AREA (AGENCY ACTION)

1. APPROVE A PURCHASE AND SALE AGREEMENT BETWEEN THE REDEVELOPMENT AGENCY AND PROPERTY OWNER HAROLD AND ELSIE Q. GELBER TRUST

2. DIRECT THE EXECUTIVE DIRECTOR OR REDEVELOPMENT ADMINISTRATOR TO NEGOTIATE A DISPOSITION AND DEVELOPMENT AGREEMENT (D&DA) TO DISPOSE OF THE PROPERTY FOR REDEVELOPMENT

Director Fitzpatrick reviewed the issue as contained in the staff report as submitted and recommended approval. Councilmember Calhoun returned to the meeting at 4:19 p.m.

Barbara Hunt, 2475 S. Walnut, spoke to the issue. President Castillo briefly left the meeting at 4:22 p.m.

A motion and second was made to approve staff's recommendation and Chair Boyajian expressed his support stating this was the most blighted area in his district.

On motion of Councilmember Sterling, seconded by Councilmember Duncan, duly carried, **RESOLVED**, the Purchase and Sale Agreement between the property owners and the Agency, and any minor modifications the Executive Director/Redevelopment Administrator may approve and the city attorney's office approves as to form hereby approved; the Executive Director/Redevelopment Administrator authorized to execute the Purchase and Sale Agreement and take such action necessary to finalize or carry out the intent and purpose of this Agency Board action including but not limited to, accepting deeds and executing supplemental escrow instructions, subject to approval as to form by the city attorney's office; and the Executive Director/Redevelopment Administrator directed to negotiate a Disposition and Development Agreement, to be brought to the Agency for approval, for sale of the Mid State Bowl property to a developer or developers for redevelopment as a potential mixed use office, commercial and/or light industrial development, by the following vote:

Ayes : Calhoun, Dages, Duncan, Perea, sterling, Boyajian
 Noes : None
 Absent : Castillo

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AGENCY UNSCHEDULED COMMUNICATION:

APPEARANCE BY BARBARA HUNT REGARDING CONFLICT OF INTEREST BETWEEN THE AGENCY AND CITY COUNCIL AND THE ILLEGALITY OF REDEVELOPMENT AGENCY PROJECTS

Appearance made.

The joint bodies adjourned their meeting at 4:26 p.m. and the City Council reconvened in regular session.

RECESS - 4:26 P.M. - 4:34 P.M.

(2:45 P.M. #2) CONTINUED HEARING ON REZONE APPLICATION NO. R-04-17 AND ENVIRONMENTAL FINDINGS, FILED BY YAMABE AND HORN ENGINEERING, ON BEHALF OF LENNAR HOMES, INC./CAMBRIDGE HOMES, EAST SIDE OF S. ARMSTRONG AVENUE BETWEEN E. KINGS CANYON ROAD AND E. BUTLER AVENUE IN COUNCIL DISTRICT 5

1. CONSIDER AND ADOPT ENVIRONMENTAL ASSESSMENT NO. R-04-17/T-5310, FINDING OF CONFORMITY TO THE 2025 FRESNO GENERAL PLAN MASTER EIR NO. 10130

2. BILL NO. B-76 - ORDINANCE NO. 2004-77 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE PROPERTY FROM AE-20 TO R-1 (RELATED VESTING TENTATIVE TRACT MAP NO. 5310 PROPOSES TO SUBDIVIDE THE SUBJECT AREA INTO A 91-LOT SINGLE FAMILY RESIDENTIAL DEVELOPMENT)

President Castillo announced the time had arrived to consider the issue and opened the hearing. Planner Bernal reviewed the issue as contained in the staff report as submitted and recommended approval.

Speaking to the issue were a Yamabe and Horn representative who stated all concerns had been addressed **(8 - 0)**, and Barbara Hunt, 2475 S. Walnut, who stated there were too many homes on each lot.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

On motion of Councilmember Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, the environmental finding of Environmental Assessment No. R-04-17/T-5310, dated April 30, 2004, that the project conforms to the provisions of the 2025 Fresno General Plan Master EIR hereby approved, and the above entitled Bill No. B-76 rezoning the project site adopted as Ordinance No. 2004-77, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	None
Absent :	None

(3:00 P.M.) WORKSHOP AND COUNCIL DIRECTION REGARDING VARIOUS ALTERNATIVE ENERGY INITIATIVES - PUBLIC UTILITIES AND ACTING PRESIDENT PEREA

A point was raised as to whether or not this was an action item with City Attorney Montoy clarifying it was as staff was presenting recommendations and requesting Council direction.

The workshop was presented by Public Utilities Director McIntyre, who spoke to the various energy projects available for further assessment, all as contained in the staff report as submitted; Dave Orth, General Manager of the Kings River Conservation District (KRCDD), who gave a PowerPoint presentation on KRCDD Power and the Community Choice Aggregation initiative; and Daniel Emmett, Advisor to the Governor's Energy Office, who spoke to the Governor's commitment to alternative fuels and to the Hydrogen Highway Network initiative.

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Speaking to the issue were: Samuel Norman, The Rios Company, who spoke to their work with the Hydrogen Power Park Initiative; Paul Frederick, 4613 W. Polo Creek Ct., Future Fuels, LLC; Fred Furrow, President, Full Circle Energy, 57 Burgan, Clovis **(9 - 0)**; Gloria Torrez, who spoke to the need for clean air diesel fuel and an improved transportation system; Ronald Allison, hydrogen fuel cell operator, 1171 Fulton Mall; and Barbara Hunt, 2475 S. Walnut.

Acting President Perea made a motion to approve staff's recommendations, expressed his support for renewable energy/alternative fuels and stated he was happy to see the city moving beyond it's first huge solar project, spoke briefly to a statewide survey that was conducted which showed support for alternative fuels, and upon his request Al Galvez of PG&E spoke to how PG&E could be a partner in moving the initiative forward. Upon question of President Castillo, Mr. McIntyre stated it would be appropriate to include PG&E in recommendation #4 as PG&E was on record in support of community choice aggregation. Councilmember Calhoun concurred with Acting President Perea and stated this issue was very appropriate, and complimented staff, acknowledged Mr. Norman for being ahead of the curve, and thanked the Governor for his leadership. Councilmember Sterling thanked staff and all the participants on the workshop and stated her support for the motion. Mr. McIntyre responded to questions of Councilmember Dages relative to cost for the study, project timelines/implementation so rate increases are not passed onto customers, the \$30- \$40 million savings, and if staff was working with the water resources board. Councilmember Duncan stated moving forward on the recommendations was a good idea but asked staff to be very cautious with emerging/non-proven technologies stating he wanted to make sure the city does not end up becoming a venture capital firm and explained, with Mr. McIntyre responding

On motion of Acting President Perea, seconded by Councilmember Calhoun, duly carried, RESOLVED, staff directed to (1)

pursue, promote, facilitate and attract energy proposals which have the potential to benefit the local economy, develop energy, create jobs, promote clean air and the fiscal condition of the City, with viable proposals to be submitted for Council consideration; (2) issue a Request for Proposals to secure contract consultation services appropriate to fully assess the technical and fiscal viability of the more complex project proposals; (3) aggressively pursue state, federal and private grant funding in support of such projects; and (4) work with the California Public Utilities Commission, the Governor's office, the State Energy Secretary, State Legislature, and PG&E to promote beneficial energy policies including viable community choice aggregation programs, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : None
 Absent : None

(5:00 P.M. #2) DIRECT STAFF TO: (1) PREPARE THE NECESSARY DOCUMENTS TO DE-FUND THE NEWLY ESTABLISHED EDUCATION-RELATED CDBG PROGRAMS IN THE PARKS, RECREATION & COMMUNITY SERVICES (PR&CS) FY 2005 BUDGET, THE INCREASED FUNDING FOR THE EDUCATION PROGRAMS IN THE PR&CS FY 2005 BUDGET ABOVE THE FY 2004 AMOUNT, AND THE FY 2005 CDBG FUNDS ALLOCATED TO RESETTLEMENT SERVICES, TOTALING APPROXIMATELY \$1,107,400, AND (2) PREPARE THE NECESSARY DOCUMENTS TO FUND THE FRESNO UNIFIED SCHOOL DISTRICT (FUSD) ELEMENTARY SCHOOL MUSIC PROGRAM - PRESIDENT CASTILLO (CONTINUED FROM EARLY IN THE MEETING)

Noting Council tabled the item to January 11th early this morning President Castillo advised people were in the audience to speak to the issue and he wanted to give them that opportunity, clarified no Council action could be taken, and made a motion to allow those in attendance to speak. City Attorney Montoy clarified the matter would come up after the last two scheduled items.

On motion of President Castillo, seconded by Councilmember Calhoun, duly carried, RESOLVED, public testimony allowed on the 5:00 p.m. #2 issue, by the following vote:

Ayes : Calhoun, Dages, Perea, Sterling, Castillo
 Noes : Boyajian, Duncan
 Absent : None

(3:30 P.M.) UPDATE OF THE UGM FEE PROGRAM

(#2) HEARING TO AMEND THE MFS RES. 80-420 INCREASING THE UGM TRAFFIC SIGNAL IMPACT FEE AND ESTABLISHING A TRAFFIC SIGNAL IMPACT FEE IN NON-UGM AREAS

1. RESOLUTION - 418TH AMENDMENT TO THE MFS RES. 80-420 INCREASING THE TRAFFIC SIGNAL IMPACT FEE (CONTINUE TO AUGUST 17, 2004, AT 10:30 A.M.)

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Continued as noted due to a noticing issue.

(#1) HEARING TO CONSIDER INCREASING UGM DEVELOPMENT IMPACT FEES FOR MAJOR STREETS, BRIDGES, NEIGHBORHOOD PARKS AND WATER

a. RESOLUTION NO. 2004-267 - 417TH AMENDMENT TO MFS RES. 80-420 INCREASING DEVELOPMENT IMPACT FEES FOR MAJOR STREETS, BRIDGE, NEIGHBORHOOD PARKS AND WATER

President Castillo announced the time had arrived to consider the issue and opened the hearing.

Interim Public Works Director Kirn acknowledged and thanked staff for all their work, gave an overview of the issue including the history, the process undertaken in updating the fees, and the recommendations being presented, all as contained in the staff report as submitted, noted an amended resolution was submitted which dealt with the effective date of the fees and a severability clause, and advised the building industry was in support and recommended approval.

Barbara Hunt, 2475 S. Walnut, expressed concern with fees ultimately being passed onto home buyers.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

Mr. Kirn responded to questions of Councilmember Dages relative to the small increase in park fees and if that was realistic, if the increased fees would allow the proposed park next to Storey Elementary to be built, interim fees, and if staff would be bringing the fee issue back in the future and if they would be working with the BIA. A motion and second was made to approve staff's recommendation. Mr. Kirn advised where 100% of the improvements had been completed the fee was listed as \$1.00 throughout the resolution, clarified that \$1.00 amount needed to be changed to zero as there was no legal basis to collect \$1.00, and requested that amendment be made part of the motion, which was so incorporated. Mr. Kirn responded to questions of Councilmember Boyajian relative to whether these fees were simply cost of living increases, if fees would be finalized in about one year, if fees would be compared with other cities, and if other cities' success and impact fees could be used as guidance. City Attorney Montoy noted the resolution was bare and recommended the staff report and attached appendices and the revised page of the MFS all presented to Council this date be made a part of the resolution, which was also incorporated in the motion.

On motion of Councilmember Dages, seconded by Councilmember Calhoun, duly carried, RESOLVED, the findings contained in the staff report, CEQA determination for Statutory Exemption and the NEXUS Analysis Report supporting the increase for UGM fees for major streets, bridges, neighborhood parks and water facilities hereby approved and a new fee schedule established based on the Engineering New Record Construction Cost Index; the above entitled Resolution No. 2004-267 hereby adopted, *as amended*, to change the \$1.00 fee to "0" (zero) and to include the staff report (dated 7/27/04), attached appendices, and the revised page of the MFS as part of the resolution; and staff directed to (1) implement the revised fees following Council approval, (2) adjust fees annually based on the Engineering News Record Construction Cost Index and review and evaluate fees under this index biannually, and (3) conduct UGM program evaluations to incorporate current construction costs, land acquisition costs, in accordance with AB 1600 laws and statutes, and report back no later than July 1, 2005, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes	:	None
Absent	:	None

(5:00 P.M. #1) HEARING ON PLAN AMENDMENT APPLICATION NO. A-03-20, REZONE APPLICATION NO. R-03-82, AND ENVIRONMENTAL FINDINGS, FILED BY CIAO PROPERTIES, 80 ACRES OF LAND LOCATED ON THE EAST SIDE OF N. HAYES BETWEEN W. ASHLAN AND W. GETTYSBURG AVENUES IN COUNCIL DISTRICT 2

1. CONSIDER AND ADOPT FINDING OF MITIGATED NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT NO. A-03-20/R-03-82

2. RESOLUTION NO. 2004-268 - AMENDING THE 2025 FRESNO GENERAL PLAN AND THE WEST AREA COMMUNITY PLAN

3. BILL NO. B-77 - ORDINANCE NO. 2004-78 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE PROPERTY FROM RR (RURAL RESIDENTIAL - COUNTY) TO R-1/UGM FOR A 60-ACRE PORTION OF THE PROPERTY AND R-2/UGM FOR A 20-ACRE PORTION OF THE PROPERTY

President Castillo announced the time had arrived to consider the issue and opened the hearing.

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(10 - 0) Planner Unruh reviewed the issue as contained in the staff report as submitted, referencing a map on the overhead to illustrate, clarified there have been no development entitlements or applications submitted for consideration at this time and at issue was the plan amendment and rezoning, and recommended approval.

Gary Giannetta, Project Engineer, on behalf of the applicant, further clarified issues relative to the plan amendment and rezone and requested approval.

Speaking to the issue and expressing various concerns relative to infrastructure, traffic, water and the rezone were: Barbara Hunt, 2475 S. Walnut; Les Dayton and Mary Dayton, 5859 W. Ashlan; Jeanetta (last name inaudible), 5911 W. Ashlan; and David Johnson, 4022 N. Hayes.

Upon call, no one else wished to be heard and President Castillo closed the public hearing.

Councilmember Boyajian stated he could not support the issue as there was no mitigated negative declaration here, an EIR was needed, and there would be many traffic issues and impacts and elaborated. Councilmember Calhoun stated he disagreed and clarified this was following the general plan, the developer would pay for necessary improvements, and the planning process and development would take place in an orderly manner and made a motion to approve staff's recommendation. Upon question of Councilmember Sterling, Mr. Giannetta stated speakers' concerns were heard, reiterated only a general plan amendment was at issue and there was no development plan at this time, and advised meetings would be held with neighbors prior to submittal of a development plan.

On motion of Councilmember Calhoun, seconded by Councilmember Dages, duly carried, RESOLVED, the finding of a Mitigated Negative Declaration for Environmental Assessment No. A-03-20/R-03-82 dated April 28, 2004, hereby approved; the above entitled Resolution No. 2004-268 hereby adopted; and the above entitled Bill No. B-77 rezoning the subject property adopted as Ordinance No. 2004-78, by the following vote:

Ayes : Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes : Boyajian
Absent : None

(5:00 P.M. #2) DIRECT STAFF TO (1) PREPARE THE NECESSARY DOCUMENTS TO DE-FUND THE NEWLY ESTABLISHED EDUCATION-RELATED CDBG PROGRAMS IN THE PARKS, RECREATION & COMMUNITY SERVICES (PR&CS) FY 2005 BUDGET, THE INCREASED FUNDING FOR THE EDUCATION PROGRAMS IN THE PR&CS FY 2005 BUDGET ABOVE THE FY 2004 AMOUNT, AND THE FY 2005 CDBG FUNDS ALLOCATED TO RESETTLEMENT SERVICES, TOTALING APPROXIMATELY \$1,107,400, AND (2) PREPARE THE NECESSARY DOCUMENTS TO FUND THE FRESNO UNIFIED SCHOOL DISTRICT (FUSD) ELEMENTARY SCHOOL MUSIC PROGRAM - PRESIDENT CASTILLO
(CONTINUED FROM EARLIER)

President Castillo reiterated only comments would be allowed and no action could be taken.

Speaking to the importance of/need for the music program and/or requesting city assistance were: Elizabeth Heng, 1896 S. Waverly Lane; Chris Perez, 2318 N. Angus #107; Christine Clement, 144 W. Robinson; Cathi Graves Tudman, 5467 E. Saginaw; Pat Barr, FUSD; Barbara Hunt, 2475 S. Walnut; and Shirley Frazier, Music Teacher, FUSD.

President Castillo thanked those who stayed and gave their input and emphasized this had been about the kids and stated the decision Council made this morning to table the matter was a slap in the face to the children. Councilmember Duncan stated there was valuable information in the staff report and requested staff send a copy of the report and a tape of these proceedings to the district board, clarified approval of this request would have resulted in the lay off of about 30 city employees and the virtual elimination of services and programs for children, stated it was unfortunate expectations were raised but clarified there was never any expectation this would pass, and concluded stating the school board needed to do their job and do what they can do which is fund the music program. There was no further discussion.

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ADJOURNMENT

There being no further business to bring before the City Council, the hour of 7:01p.m. having arrived and hearing no objections, President Castillo declared the meeting adjourned.

APPROVED on the 17th day of August, 2004.

_____/s/_____
ATTEST:_____/s/_____

Brad Castillo, Council President

Yolanda Salazar, Assistant City Clerk